

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

CIVIL NO. 3:02CV66
(3:97CR22-9)

IVEY WALKER,)
)
Petitioner,)
)
Vs.) O R D E R
)

UNITED STATES OF AMERICA,)
)
Respondent.)
)

THIS MATTER is before the Court on the Petitioner's notice of appeal filed November 9, 2005, which the Court construes as a request for a certificate of appealability.

An appeal may not be taken to the court of appeals from the denial of a motion pursuant to 28 U.S.C. § 2255¹ unless a certificate of appealability has been issued. **28 U.S.C. § 2253(c)(1)(B).** Such a certificate may not issue

¹The Petitioner's motion has been only partially adjudicated. See **Memorandum and Order, filed September 8, 2005, at 9** (dismissing Petitioner's claims that the Court lacked the jurisdiction to try, convict and impose sentence, and that the criminal case remains open). Government has been ordered to respond to the remaining claims by November 20, 2005.

unless the applicant has made a substantial showing of the denial of a constitutional right. **28 U.S.C. § 2253(c)(2)**. The Petitioner has not made such a showing.

IT IS, THEREFORE, ORDERED that the Petitioner's motion for a certificate of appealability is hereby **DENIED**.

The Petitioner is advised that he may renew this request to the Fourth Circuit Court of Appeals within 30 days from entry of this Order.

Signed: November 14, 2005



Lacy H. Thornburg
United States District Judge

